



RL 0328

University of Hawaii at Manoa

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Office of the Director

February 27, 1979

MEMORANDUM

TO: Stanley Hara, Chairman
Senate Committee on Ecology,
Environment and Recreation

FROM: Doak C. Cox, Director *DC*

SUBJECT: SB 767 - Relating to Noise Pollution

SB 767 appears to be identical to a bill introduced in the House, HB 122. An Environmental Center statement (RL:0328, corrected) which deals in part with HB 122 is attached hereto for the consideration of your committee and the Committee on Intergovernmental Relations in your joint hearing Wednesday, 28 February 1979.

Attachment



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RL:0328
Corrected

HB 122 and HB 415 RELATING TO NOISE POLLUTION

Statement for
House Committee on Ecology and Environmental Protection
Public Hearing - 16 February 1979

By
John Burgess, Mechanical Engineering
Doak C. Cox, Environmental Center
Kem Lowry, Pacific Urban Studies and Planning Program

HB 122 would add new sections pertaining to noise control to HRS 46, the chapter on county organization and administration, to HRS 235, the chapter on taxation, and to HRS 342, the chapter on pollution control. HB 45 would amend HRS 342 by adding a new section to part IV, which relates to noise pollution. This statement on the bills does not reflect an institutional position of the University. In it, we comment on certain provisions in the bills but, because of limitations of time, we can only raise questions with respect to other provisions.

HB 122

The reasons for noise control expressed in section 1 of HB 122 are valid. It should be recognized that the act proposed approaches the problem of controlling noise only through the reduction of interior noise in residences, and only by techniques such as insulation. Reduction in ambient noise through controls on noise emission, the use of appropriate zoning, set backs and landscape buffers, and the application of insulation techniques to other types of buildings should be considered, although not necessarily in this bill.

It should be noted that one effect of the proposed act will be to decrease the extent of natural ventilation of buildings and increase the use of air conditioning. While this may be necessary for the control of noise in the case of existing structures exposed to existing sources of noise, at least equal stress should be stressed on the separation of residences and other facilities in which noise is a problem from major sources of noise, through zoning, and on the control of noise emission, to provide the needed protection in the case of new structures.

It should be noted, in addition, that the term "excessive noise" is defined in HRS 342-41 as noise whose intensity "endangers human health, welfare and safety, animal life, or property or which unreasonably interferes with the comfortable enjoyments of life

and property," and not merely with an intensity sufficient to cause the health problems listed in the first paragraph of section 1 of HB 122 or to jeopardize "the health, safety, and welfare of residents" as suggest in the second paragraph.

The effects of the provisions on sections 2 and 3 of the bill depend in part on the provision of sections 4 and 5 hence we address those first.

Sections 4 and 5

Section 4 of the bill would amend HRS 342 so as to require the Department of Health (DOH) to establish a program to identify and designate excessive noise areas. Through rules, the DOH would have to establish standards or procedures for monitoring noise and allowable noise; excessive noise level areas; and procedures for informing the public, land owners, and residents about excessive noise areas and means for noise abatement. Section 5 would make an appropriation to support the efforts required in section 4.

The types of standards and procedures required in section 4 are appropriate. It should be noted that the DOH has already adopted "allowable noise levels" in its community noise control regulation for Oahu, (Public Health Regulation 44B). These presumably represent standards for excessive noise as defined in HRS 342-41 rather than as suggested in section 1 of HB 122.

It should also be noted that it is not merely the general public, land owners and residents that should be informed about noise. Agency personnel responsible for the planning and construction of such public facilities as schools and libraries should also be informed about noise problems and means for their abatement.

The Environmental Protection Agency and the Housing and Urban Development Department have adopted noise standards or guidelines, but these are not necessarily pertinent in areas where single wall construction and the use of large openings are so common as in Hawaii. Unless the DOH has more technical competence than we are aware of, it will have to utilize contractual services in developing standards and procedures appropriate in Hawaii. Could the appropriation provided by section 5 be used to pay for such services?

Section 2

Section 2 would add to HRS 46 a requirement that each county adopt a noise building code in conformity to the standards to be established by the DOH. These noise codes would apply to residential dwellings to be constructed or renovated in areas of excessive noise designated by the DOH.

No similar requirement in HB 122 would apply to the construction of such facilities as schools, libraries, and hospitals. Act 146 (1970) requires the Department of Education (DOE) provide for noise control in public schools, but we suggest consideration of adding, to HB 122, provisions to apply the standards of either the DOE or the DOH to private schools.

The extent of renovation of a residence that would result in the imposition of the noise standards may be a problem. Would renovation of a single room require compliance with the noise standards throughout a residence? If not, would there be much point to requiring compliance in just that room?

Section 3

Section 3 would provide for relief to those required to install noise insulation materials or noise abatement devices under the codes to be established in section 2. We note that it may be very difficult to establish just what cost will be associated with meeting the standards in the case of a design selected in part to reduce internal noise but for other purposes as well, even than such a design might well be considered a noise abatement device.

HB 415

HB 415 would amend part IV of HRS 342. This part relates to noise pollution. The amendment would add a new section providing for enforcement and penalties. The preparers of the bill have apparently overlooked the fact that, in part I of HRS 342, there are provisions for both enforcement and penalties that apply to all parts of the Chapter.

HRS 342-11(a) provides that violation of the vehicular noise control regulations (pertinent to HRS 342-42(l)) shall be enforceable by police officers and prescribes minimum penalties of \$25 and maximum penalties of \$2,500 for such violations. HRS 342-11(c) provides a maximum penalty of \$10,000 for any other violation of regulations pursuant to HRS 32, including other noise control regulation.

HRS 342-11.3 provides for citation in the case of any noise control regulation.

HRS 342-17 provides that all state and county health authorities and police officers shall enforce all parts of HRS 342.

Subsection (a) of the new section proposed in HB 415 would not add to the enforcement authority in the combination of HRS 342-11(a) and HRS 342-17. However, there is an inconsistency between the provisions of these two present sections. In the case of violation of vehicular noise control only regulation it is not clear whether any police officers have enforcement authority, as implied in HRS 342-11(a) or whether all of the officials mapped in HRS 342-17 have the authority. This might be classified in a revised version of HB 415.

Subsection (a) of the proposed new section would not add to the provisions of citations applying to violations of all noise control regulations in HRS 342-17.

Although subsection (b) of the proposed new section would seem to provide a minimum penalty of \$10 in the case of the violation of any noise control regulation, this minimum would not actually be applicable in the case of vehicular noise control regulations because HRS 342-11(a) provide that such a penalty cannot be less than \$25.

Perhaps HB 415 can be revised so as to clarify and better organize present provisions for enforcement authority, citations, and penalties in the law, relating to noise control but as introduced the bill would merely add to the confusion.